



The Corporate Agenda for the Future of New Brunswick's Crown Lands

A Look at the Jaakko Poyry Report and the Demands of Crown Land Licensees

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1) Who owns Crown Land?

Crown lands cover more than three million hectares of New Brunswick, approximately 50% of the land. According to the Supreme Court of Canada, Crown lands are held in trust by the Province for the benefit of all people, including those not yet born. As the land was never ceded to the Crown by the First Nations it is subject to a comprehensive land claim, as well as subject to aboriginal and treaty rights as enshrined in Canada's constitution. According to the courts, government must consult with First Nations about the use of Crown lands. This has not been the practice in New Brunswick.

The Minister of Natural Resources and Energy also has statutory responsibilities to the people of New Brunswick in Section 3(1) of the Crown Lands and Forests Act which makes the Minister responsible for the "development, utilization, protection and **integrated management of the resources of Crown Lands . . .**" (Integrated management refers to integrating the management of soil, water, wildlife and timber).

2) What does the Jaakko-Poyry report recommend?

The Jaakko Poyry study made the following recommendations, which the New Brunswick Forest Products Association has called "A Blueprint for the Future:"

1. A timber supply objective should be set for each license area **that would be binding on the Government** and on the licensee. The recommended timber supply objective was to double the amount of spruce and fir available for harvesting by 2040 by converting 40 percent of the forests on Crown land to tree plantations.
2. The public should participate in **reviewing** the objectives of management for New Brunswick's Crown lands to provide a mandate for the direction and magnitude of change in forest management.
3. DNRE should **reduce overlap in management and oversight of Crown lands**.
4. Special management zones should be critically reviewed and where possible additional harvesting permitted.

Conservation values of private lands should be taken into account when evaluating the need for set asides and special management on public lands.

3) How did this issue develop?

On September 14, 2001, the six corporations holding licenses to log on Crown land sent a letter to the Minister of Natural Resources making a series of demands with respect to the future of Crown Land Management in New Brunswick.

These included:

1. Revise the "Vision" document and Forest Management Agreements to incorporate wood supply goals that maintain the softwood AAC (annual allowable cut) above 1997-2001 levels, and double the sustainable harvest by 2050.
2. Revise government policies to be consistent with doubling the wood supply; and develop mechanisms whereby government and Licensees are held financially accountable to achieve the objectives of the Forest Management Agreements.
3. Implement a silviculture program to achieve the wood supply objectives stated above.
4. Implement third-party audits to assure accountability and protection of Crown lands, and to verify performance as per the Forest Management Agreements.
5. Require certification of all Crown land operations for environmental sustainability.
6. Streamline and simplify Crown land management procedures to improve cost efficiency.

The corporations, through their lobby group the New Brunswick Forest Products Association, commissioned the Finnish-based Jaakko Poyry multinational consulting firm to examine how these demands could be acted upon. The Department of Natural Resources and Energy contributed \$150,000 to the study to have a number of questions addressed. A steering committee was formed which included senior officials from the Department of Natural Resources and Energy, Nexfor Fraser Papers, UPM-Kymmene Miramichi and J.D. Irving Ltd, along with staff from Jaakko Poyry. The report was released on December 11, 2002.

4) What is really at stake?

On the surface, Jaakko Poyry and the corporations are simply calling for the scale of the agricultural approach to forestry to be doubled (replacing 40 percent of public forests with plantations instead of the 20 percent conversion currently planned). However, what is really at stake is **who controls the Crown land**.

At the news conference where the Jaakko Poyry report was released, corporate representatives stressed the point that their use of Crown lands is at the mercy of public policy. This is stating the obvious. Crown lands are supposed to be managed to serve the common good, not private interests. Public forest policy must achieve ecological, social, cultural, and economic goals, not simply the financial objectives of pulp and paper companies.

Clearly the clash is between a corporate agenda to farm the Crown lands for fibre and the legal and moral responsibilities of the provincial government, as trustee, to manage Crown lands to provide a broad range of public benefits for the long-term and to honour aboriginal and treaty rights.

5) Why do the pulp and paper companies want more control?

Some have interpreted this as concern over forest area lost to new protected areas. However, this is not the case. The Province purchased more than enough woodlands from Georgia Pacific and the Hearst Corporation to offset the creation of the new protected natural areas.

It is the creation of new special management areas designed to meet objectives that are not exclusively timber-related which has the corporations spooked. The vast majority of Crown land (70 percent) is managed for one single objective: to supply fibre to the mills - ignoring habitat, wildlife, water, and biodiversity. The creation of more special management areas to meet ecological objectives such as wildlife habitat conservation or social objectives such as community development and job creation would reduce the area exclusively devoted to intensive fibre production.

Crown License Holders 2002

Company	Head Office	Crown Land	Licenses
Irving	Saint John, NB	959,940 ha	Queens-Charlotte & Fundy
UPM-Kymmene	Finland	952,782 ha	Lower & Upper Miramichi
Nexfor (Fraser Papers)	Toronto, ON	698,932 ha	Restigouche-Tobique & Carleton
Bowater	Greenville, South Carolina	393,994 ha	Upsalquitch
Parons & Whittemore (St. Anne Nackawic)	Rye Brook, New York	124,245 ha	York
Weyerhaeuser	Tacoma, Florida	60,237 ha	Kent

6) What are Special Management Zones?

To address the wide array of ecological and social values for which Crown lands are supposed to be managed, special management zones can be created.

Currently we have riparian management zones where clearcutting is not permitted within 30 metres of streams, lakes or rivers. One third of these riparian forests can be cut every ten years using partial cutting systems. We also have two special habitat management zones: deer wintering yards and old spruce-fir habitat areas (to provide habitat to pine marten and other species associated with this type of forest). Logging is also permitted in these zones, and in fact, they can ultimately be clearcut, as long as the total area requirements for this kind of habitat is met on each licence.

Our forest ecosystems have been simplified by clearcutting, plantations, herbicide spraying and thinning, habitat for a number of forest-dependent species is disappearing and when wildlife biologists realized that within a very few years there wouldn't be any habitat left for pine marten, DNRE required a certain minimum area of its habitat type to be maintained on each license. This approach was to be extended for other habitat types to meet the requirements for flying squirrels, barred owls, white-breasted nuthatches, scarlet tanagers, pine warblers and black-backed woodpeckers. In addition to old spruce-fir forests habitat areas, the corporations would have had to leave areas of old jack pine forest, old mixed wood forest, old hardwood forest, and so on. However, the implementation of this requirement for additional habitat areas was delayed until at least 2007.

The 2002-2007 forest management plans did have to meet New Brunswick's first ever objective for biodiversity conservation. This requires each of the licensees to ensure that 12 percent of the area occupied by each of the ten major forest types on their licence is maintained as older forest. Logging can occur in these older forests, and they can eventually be clearcut, as long as the 12 percent area target is maintained.

To date, special management zones have only been established to meet ecological objectives. Outside of sugar bush and camp leases, there are no special management zones to meet social or cultural objectives. However, there is growing momentum for changing the licensing rules to provide area-based licences for First Nations, woodlot owners, and forest-based communities. This in effect would create special management zones to support community development, further reducing the area for intensive production of fibre.

7) What are binding targets? If implemented, how would they tie the hands of our government?

The Jaakko Poyry report recommended that the Province set binding targets to maximize the volume of balsam fir and spruce growing on Crown land while limiting other objectives, including those for habitat protection, wildlife, water protection and biodiversity conservation to those established in 2000. This is consistent with the demand the corporations' made in their letter to the Minister to make the Province financially accountable for achieving wood supply targets.

However, the Jaakko Poyry report does not describe how wood supply targets could be made binding on the Province.

The likely approach would be a financial mechanism that would force taxpayers to pay compensation to the corporations for the loss of potential profits resulting from the implementations of objectives that would reduce the targeted production of more fibre.

"Binding targets" would tie the hands of New Brunswickers, through their government, in setting new or improved goals and objectives for the management of Crown lands to reflect ecological and social values. No jurisdiction is known to have binding targets to increase wood supply.

8) What is the problem with growing more trees?

The problem is how the corporations want to grow more trees – through clearcutting forests and replacing them with plantations. Plantations are more agricultural ecosystems than forest ecosystems, lacking the wide variety of habitats and ecological functions supplied by forests.

They are a method of farming the land for fibre, using herbicides to kill off hardwood trees and shrubs that might compete with the planted spruce seedlings. Plantations lack the biodiversity that helps ensure insects don't become pest problems and lack the normal ecological processes that maintain the fertility of forest soils. This creates demands for chemical insecticides and fertilizers.

Plantations eliminate forests. If you grow more spruce, then you grow less of everything else that makes up a healthy forest in New Brunswick.



9) Why shouldn't the pulp and paper companies pay for silviculture on Crown Lands?

Taxpayers reimburse the corporations for silviculture (thinning, planting and herbiciding) on Crown lands to the tune of more than \$20 million per year. In return for holding 25 year licenses to log Crown land, the corporations are required to implement the management practices approved by the Department of Natural Resources and Energy. The public investments are intended to "improve" public forests. If there was a requirement for the corporations to pay for silviculture, then they in turn could demand that the public be liable if the public, through the government, created new policies which interfered with the realization of potential profits from the silviculture treated area.

10) Is it true we are running out of wood? Will this solve the problem?

We ran out of some types of commercially desirable wood a long time ago. Large quantities of trees big enough to produce high quality lumber are no longer available. The productive capacity of the pulp and paper mills exceed the amount of spruce and fir available from Crown lands, corporate lands, and woodlots combined. The level of cut permitted on Crown lands is at the limit of what the computer models tell foresters can be sustained over time. Some argue that the projections for what can be cut are overestimates and the records of what has been cut are understated.

11) It takes a long time to grow a tree. What do the pulp and paper companies want to do in the meantime?

As it would take up to 40 years before new plantations would yield significantly more spruce to cut, the consultants argue that attention must also focus on cutting more fir and spruce today.

The consultants argue for a three-fold approach.

First, no more special management zones or objectives should be permitted.

Second, under the current rules, the companies could almost double the amount of wood they are currently removing from stream buffers, deer yards and old spruce-fir habitats from 278,000 cubic metres/year to 528,000 cubic metres/year. This is not occurring because of the higher cost of logging in the riparian management areas.

Third, they argue that the rules should be changed to allow even higher levels of cutting in these special management areas. The argument goes that while the design of these areas is science-based and the results are quantifiable, the other jurisdictions they examined take a more subjective approach, so New Brunswick should relax its standards.

12) Who manages Crown Lands?

Finally, the corporations want the trustee of Crown land to back off. Jaakko Poyry recommends that DNRE should reduce overlap in management and oversight of Crown lands. This relates to the corporations' demand in their letter to the Minister that third-party audits be used to assure accountability and protection of Crown lands, and to verify performance. The consultants contend that DNRE is too actively involved in management planning and oversight of the implementation of management plans. They argue that this has increased the costs of forest management for the corporations. They say that the performance of the licensees is evaluated based on what they do, not what they achieve, and that this has hindered their ability to maximize the production of fibre.

Jaakko Poyry points to Mike Harris's Ontario as a model of how industry/government responsibilities on Crown land can be streamlined. In Ontario, there is now much less operational oversight. Performance evaluation has been privatized to third-party certification auditors. Ontario now has 70 percent fewer government employees per hectare of forest under management than New Brunswick.

Jaakko Poyry offers the opinion that a third-party certification auditors' evaluation of a licensee's performance would provide an adequate level of due diligence in terms of meeting the Department's responsibilities under the Crown Lands and Forests Act, allowing the Department to downsize. No mention was made of the Province's public trust responsibilities for Crown land.

13) What is the role of the public?

Jaakko Poyry recommends that the public should participate in **reviewing** the objectives of management for New Brunswick's Crown lands to provide a mandate for the direction and magnitude of change in forest management. There is no mention of consultation with First Nations. The provincial government has embraced this recommendation and appointed a Select Committee of the Members of the Legislative Assembly to hold public hearings.

Reviewing objectives versus setting the agenda for Crown lands are two very different things. In their 2001 letter to the Minister of Natural Resources and Energy and through the Jaakko Poyry report, the corporations are clearly attempting to set the agenda for the future of Crown lands - setting out a blueprint as they have said.

Any agenda for Crown lands legally must be set by the New Brunswick public in consultation with First Nations. Yet the people are being reduced to the status of reviewing the corporate agenda for Crown lands.

First Nations, the Conservation Council of New Brunswick, the New Brunswick Federation of Woodlot Owners, the Labour movement, and many others have called on the government to initiate meaningful consultations around the future of Crown lands in New Brunswick. In the Conservation Council's case, such requests go back twelve years and have been consistently made right up to today. In all cases, the call for meaningful consultation since 1990 has been rejected or ignored.

It is only when the corporations through the Jaakko Poyry report call for a public review of their agenda that "consultation" has been embraced.

14) What is the public vision?

New Brunswickers now have the corporate agenda for the future of Crown lands before them. A public agenda has yet to be developed.

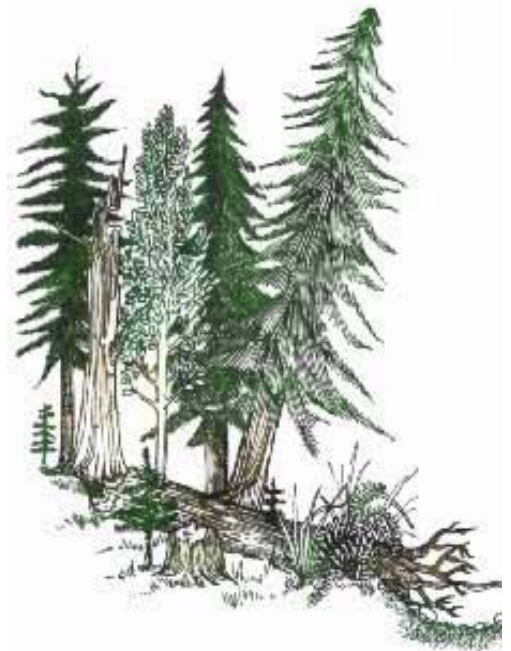
What are our ecological and social objectives for Crown lands?

How can Crown lands be managed to maintain healthy forest ecosystems that sustain all plants and animals, soils, and waters?

How can Crown lands be managed to honour aboriginal and treaty rights?

How can Crown lands be managed to build stronger rural communities, provide secure livelihoods, and more equitably share the wealth they generate?

This is the direction that the Select Committee on Crown lands needs to hear.



Crown Lands Action Group ~ Groupe d'action sur les terres de la Couronne